

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0902

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

TUESDAY - AUGUST 4, 2009 - 3:30 p.m.

**DEPARTMENT OF ENVIRONMENTAL QUALITY
Conference Room B
1410 N. Hilton, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Rules for the Control of Air Pollution in Idaho limit, for fuel burning sources, the amount of sulfur allowed in residual fuel oil, distillate fuel oil, and coal. This limits the flexibility of industries to use less expensive alternative fuels with higher sulfur contents. DEQ has initiated this rulemaking to allow industries a less expensive alternative to current fuels with no additional environmental impact. The revisions included in this proposed rule allow for higher sulfur content fuels to be used in fuel burning equipment in Idaho as long as the resulting emissions are at levels equal to or lower than those provided for in the existing rules.

Members of the regulated community who may be subject to Idaho's air quality rules, as well as special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from sources in Idaho, may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. It is this addition to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality at the October 2009 Board meeting for adoption as a pending rule. The rule is expected to be final and effective upon the adjournment of the 2010 legislative session if adopted by the Board and approved by the Legislature.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code Section 67-5220 and IDAPA 58.01.23.810-815. On April 1, 2009, the Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Vol. 09-4, page 40. On April 15, 2009, a preliminary draft negotiated rule was made available for public review. One meeting was held on April 14, 2009. Members of the public participated in this negotiated rulemaking process by attending the meeting and by submitting written comments.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or martin.bauer@deq.idaho.gov.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before August 4, 2009.

DATED this 29th day of May, 2009.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-0902

725. RULES FOR SULFUR CONTENT OF FUELS.

This section applies to fuel burning sources in Idaho. Its purpose is to prevent excessive ground level concentrations of sulfur dioxide. The reference test method for measuring fuel sulfur content shall be ASTM method, D129-95 Standard Test for Sulfur in Petroleum Products (General Bomb Method) or such comparable and equivalent method approved in accordance with Subsection 157.02.d. Test methods and procedures shall comply with Section 157.

(5-8-09)

01. Definitions.

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a. ASTM. American Society for Testing and Materials.

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b. Distillate Fuel Oil. Any oil meeting the specifications of ASTM Grade 1 or Grade 2 fuel oils.

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c. Residual Fuel Oil. Any oil meeting the specifications of ASTM Grade 4, Grade 5 and Grade 6 fuel oils.

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02. Residual Fuel Oils. No person shall sell, distribute, use or make available for use, any residual fuel oil containing more than one and three-fourths percent (1.75%) sulfur by weight.

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03. Distillate Fuel Oil. No person shall sell, distribute, use or make available for use, any distillate fuel oil containing more than the following percentages of sulfur:

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a. ASTM Grade 1. ASTM Grade 1 fuel oil - zero point three percent (0.3%) by weight.

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b. ASTM Grade 2. ASTM Grade 2 fuel oil - zero point five percent (0.5%) by weight.

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04. Coal. No person shall sell, distribute, use or make available for use, any coal containing greater than one percent (1.0%) sulfur by weight.

(5-8-09)

05. Exemptions. The Department may approve an exemption from the requirements of Subsections 725.01 through 725.04 if the applicant demonstrates that, through control measures or other means, sulfur dioxide emissions are equal to or less than those resulting from the combustion of fuels complying with the limitations of Subsections 725.01 through 725.04.

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